

INTERIOR DESIGN EXAMINING BOARD[193G]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 544C.3, the Interior Design Examining Board hereby gives Notice of Intended Action to amend Chapter 1, “Description of Organization,” Chapter 5, “Disciplinary Authority and Grounds for Discipline,” Chapter 6, “Disciplinary Investigations,” and Chapter 7, “Disciplinary Proceedings,” Iowa Administrative Code.

The proposed amendments are a result of the five-year rolling administrative rules review outlined in Iowa Code section 17A.7(2). A committee of the Board, including Board members and staff, with the assistance of legal counsel, reviewed all eight chapters to identify outdated or redundant references, inconsistencies with statutes, and methods of enhancing efficiencies. The proposed amendments update citations and make general updates. The proposed amendments in Chapter 1 update the Board’s address, clarify the Board’s make-up, specify length of officer terms, and remove references to the procedural uniform rules for the Professional Licensing and Regulation Bureau. The proposed amendments to Chapter 5 update Iowa Code references. The proposed amendments to Chapter 6 update Iowa Code references and remove closing orders, which are not used by the Board. The proposed amendments to Chapter 7 update references.

Consideration will be given to all written suggestions or comments received on or before November 29, 2016. Comments should be directed to Lori SchraderBachar, Iowa Interior Design Examining Board, 200 E. Grand Avenue, Suite 350, Des Moines, Iowa 50309. E-mail may be sent to lori.schraderbachar@iowa.gov.

A public hearing will be held on November 29, 2016, at 10 a.m. in the Board Office, 200 E. Grand Avenue, Suite 350, Des Moines, Iowa, at which time persons may present their views on the proposed amendments either orally or in writing. At the hearing, any person who wishes to speak will be asked to give the person’s name and address for the record and to confine remarks to the subject of the proposed amendments. Any persons who intend to attend the public hearing and have special requirements, such as those relating to hearing or mobility impairments, should contact the Board and advise of specific needs.

These proposed amendments were approved by the Board on September 26, 2016.

These proposed amendments are subject to waiver or variance pursuant to 193—Chapter 5.

After analysis and review of this rule making, the Board determined that there will be no impact on jobs and no fiscal impact to the state.

These amendments are intended to implement Iowa Code section 544C.3.

The following amendments are proposed.

ITEM 1. Strike “Supplement” wherever it appears in **193G—Chapter 1**.

ITEM 2. Amend rule **193G—1.1(544C,17A)**, definition of “Bureau,” as follows:

“Bureau” means the professional licensing and regulation bureau; of the division of banking of the department of commerce.

ITEM 3. Amend rule 193G—1.2(544C) as follows:

193G—1.2(544C) Description.

1.2(1) The purpose of the ~~interior design examining~~ board is to administer and enforce the provisions of Iowa Code ~~Supplement~~ chapter 544C, including issuing registration certificates and registration

renewals; investigating violations and infractions of the interior design law; disciplining registrants; and seeking injunctive relief against unregistered persons who violate Iowa Code Supplement chapter 544C. To this end, the board has promulgated these rules to clarify the board's intent and procedures.

1.2(2) The primary mission of the board is to protect the public interest. All board rules shall be construed as fostering the guiding policies and principles described in Iowa Code Supplement chapter 544C. The board and its registrants shall strive at all times to protect the public interest by promoting the highest standards of interior design.

1.2(3) All official communications, including submissions and requests, should be addressed to the board at 1920 S.E. Hulsizer Road, Ankeny, Iowa 50021 200 East Grand Avenue, Suite 350, Des Moines, Iowa 50309.

ITEM 4. Amend rule 193G—1.3(544C,17A), introductory paragraph, as follows:

193G—1.3(544C,17A) Organization and duties. The board shall consist of seven members: five members who are interior designers registered under Iowa Code chapter 544C and two members who are not interior designers and who represent the general public. The board shall elect annually from its members a chairperson and a vice-chairperson. A quorum of the board shall be four members, and all final motions and actions must receive a majority of a quorum vote. The board shall enforce the provisions of Iowa Code Supplement chapter 544C and shall maintain a roster of all registered interior designers in the state.

ITEM 5. Amend rule 193G—1.4(544C,17A) as follows:

193G—1.4(544C,17A) Meetings. Calls for meetings shall be issued in accordance with Iowa Code section 21.4. The annual meeting of the board shall be the first meeting scheduled after April 30. At this meeting, the chairperson and vice-chairperson shall be elected to serve until their successors are elected. The chairperson and vice-chairperson shall serve one-year terms. The newly elected officers shall assume the duties of their respective offices at the conclusion of the meeting at which they are elected.

ITEM 6. Amend rule 193G—1.5(544C) as follows:

193G—1.5(544C) Other meetings. In addition to the annual meeting and any subsequent meetings, the time and place of which may be fixed by resolution vote of the board, a meeting may be called by the chairperson of the board or by joint call of a majority of its members.

ITEM 7. Amend rule 193G—1.6(544C,17A) as follows:

193G—1.6(544C,17A) Order of business. The chairperson or ~~the chairperson's designee~~ board administrator shall prepare an agenda listing all matters to be discussed at a meeting. A copy of the agenda shall be available to each member of the board. ~~Procedures shall be in accordance with Robert's Rules of Order.~~

ITEM 8. Amend subrule 1.7(1) as follows:

1.7(1) The board chairperson may appoint administrative committees of not less than two nor more than ~~four~~ three members who shall be members of the board for the purpose of making recommendations on matters specified by the board.

ITEM 9. Rescind rules **193G—1.8(544C,17A)** to **193G—1.12(544C,17A)**.

ITEM 10. Renumber rule **193G—1.13(544C,17A)** as **193G—1.8(544C,17A)**.

ITEM 11. Amend renumbered rule 193G—1.8(544C,17A) as follows:

193G—1.8(544C,17A) Waivers and variances.

1.8(1) Persons who wish to seek waivers or variances from board rules should consult the uniform rules for the ~~professional licensing and regulation~~ bureau at 193 IAC 5 193—Chapter 5.

1.8(2) In addition to the provisions of ~~193 IAC 5~~ 193—Chapter 5, the following shall apply for interim rulings:

a. The board chairperson, or the vice-chairperson if the chairperson is not available, may rule on a petition for waiver or variance when it would not be timely to wait for the next regularly scheduled board meeting for a ruling from the board.

b. The ~~executive officer~~ board administrator, upon receipt of a petition that meets all applicable criteria established in ~~193 IAC 5~~ 193—Chapter 5, shall present the request to the board chairperson or vice-chairperson along with all pertinent information regarding established precedent for granting or denying such requests.

c. The chairperson or vice-chairperson shall reserve the right to hold an electronic meeting of the board, pursuant to Iowa Code section 21.8, when prior board precedent does not clearly resolve the request, input of the board is deemed required, and the practical result of waiting until the next regularly scheduled meeting would be a denial of the request due to timing issues.

d. No change.

e. ~~Subrule 1.13(2)~~ Subrule 1.8(2) on interim rulings does not apply if the waiver or variance was filed in a contested case.

ITEM 12. Rescind rules **193G—1.14(544C,17A,272C)** to **193G—1.16(272C)**.

ITEM 13. Amend rules 193G—5.1(17A,272C,544C) and 193G—5.2(17A,272C,544C) as follows:

193G—5.1(17A,272C,544C) Disciplinary authority. The board is empowered to administer Iowa Code chapters 17A, 272C, and 544C and related administrative rules for the protection and well-being of those persons who may rely upon registered individuals for the performance of interior design services within this state or for clients in this state. To perform these functions, the board is broadly vested with authority to review and investigate alleged acts or omissions of registrants, determine whether disciplinary proceedings are warranted, initiate and prosecute disciplinary proceedings, establish standards of professional conduct, and impose discipline pursuant to Iowa Code sections ~~17A.13, 272C.3 to 272C.6, 272C.10, 544C.3 and 544C.10.~~

193G—5.2(17A,272C,544C) Grounds for discipline. The board may initiate disciplinary action against a registered interior designer on any of the following grounds:

1. A violation of any of the rules of professional conduct set forth in 193G—Chapter 4.

2. A violation of Iowa Code ~~subsection~~ section 272C.9(2) or 272C.9(3).

3. Failure to comply with an order of the board imposing discipline.

~~4. A violation of Iowa Code subsection 272C.3(2).~~

~~5.~~ 4. Continuing to practice as a registered interior designer without satisfying the continuing education requirement, absent express waiver granted by the board.

~~6.~~ 5. Failure to fully cooperate with a registrant disciplinary investigation or investigation against a nonregistrant, including failure to respond to a board inquiry within 30 calendar days of the date of mailing by certified mail of a written communication directed to the registrant's last address on file at the board office.

~~7.~~ 6. A violation of Iowa Code section 544C.9 or 272C.10.

ITEM 14. Amend rule 193G—6.3(272C,544C) as follows:

193G—6.3(272C,544C) Sources of information. Without limitation, the following nonexclusive list of information sources may form the basis for the initiation of a disciplinary investigation or proceeding:

1. General or random review of publicly available work product.

2. News articles or other media sources.

3. Reports filed with the board by the commissioner of insurance pursuant to Iowa Code ~~subsection~~ section 272C.4(9) section 272C.4(10).

4. Complaints filed with the board by any member of the public.

5. Registration applications or other documents submitted to the board.

6. Reports to the board from any regulatory or law enforcement agency from any jurisdiction.
7. Board audits of registrant compliance with conditions for registration, such as continuing education.

ITEM 15. Amend subrule 6.5(1), introductory paragraph, as follows:

6.5(1) *Contents of a written complaint.* Written complaints may be submitted on forms provided by the board which are available from the board office and on the board's Web site. Written complaints, whether submitted on a board complaint form or in other written medium, ~~shall~~ may contain the following information:

ITEM 16. Amend rule 193G—6.7(272C,544C) as follows:

193G—6.7(272C,544C) Confidentiality of complaint and investigative information. All complaint and investigative information received or created by the board is privileged and confidential pursuant to Iowa Code ~~subsection~~ section 272C.6(4). Such information shall not be released to any person except as provided in that ~~subsection~~ section.

ITEM 17. Amend subrule 6.8(1) as follows:

6.8(1) *Disciplinary committee.* The board chairperson ~~shall~~ may annually appoint, as needed, two to ~~four~~ three members of the board to serve on the board's disciplinary committee to review and process disciplinary complaints. The disciplinary committee is a purely advisory body which shall review complaint files referred by the ~~board's executive officer~~ board administrator, generally supervise the investigation of complaints, and make recommendations to the full board on the disposition of complaints. Members of the committee shall not personally investigate complaints, but they may review the investigative work product of others in formulating recommendations to the board.

ITEM 18. Amend rule 193G—6.10(17A,272C,544C) as follows:

193G—6.10(17A,272C,544C) Closing complaint files.

6.10(1) *Grounds for closing.* Upon the recommendation of the board's executive officer pursuant to subrule 6.5(5), the recommendation of the disciplinary committee pursuant to rule 193G—6.8(17A,272C,544C), or on its own motion, the board may close a complaint file, with or without prior investigation. The board's decision is final and not eligible for judicial review. Given the broad scope of matters about which members of the public may complain, it is not possible to catalog all possible reasons why the board may close a complaint file. The following nonexclusive list is, however, illustrative of the grounds upon which the board may close a complaint file:

a. to *g.* No change.

~~**6.10(2) *Closing orders.*** The board's executive officer may enter an order stating the basis for the board's decision to close a complaint file. If entered, the order shall not contain the identity of the complainant or the respondent and shall not disclose confidential complaint or investigative information. If entered, a closing order will be indexed by case number and shall be a public record pursuant to Iowa Code subsection 17A.3(1)(d). A copy of the order may be mailed to the complainant, if any, and to the respondent. The board's decision whether or not to pursue an investigation, to institute disciplinary proceedings, or to close a file is not subject to judicial review.~~

6.10(3) *6.10(2) Cautionary letters.* The board may issue a confidential letter of caution to a registrant when a complaint file is closed which informally cautions or educates the registrant about matters which could form the basis for disciplinary action in the future if corrective action is not taken by the registrant. ~~Informal cautionary~~ Cautionary letters do not constitute disciplinary action, but the board may take such letters into consideration in the future if a registrant continues a practice about which the registrant has been cautioned.

6.10(4) *6.10(3) Reopening closed complaint files.* The board may reopen a closed complaint file if additional information arises after closure which provides a basis to reassess the merits of the initial complaint.

ITEM 19. Amend rule 193G—7.1(17A,272C,544C) as follows:

193G—7.1(17A,272C,544C) Initiation of disciplinary proceedings. Disciplinary proceedings may be initiated only by the affirmative vote of a majority of a quorum of the board at a public meeting. Board members who are disqualified shall not be included in determining whether a quorum exists. If, for example, two members of the board are disqualified, four members of the board shall constitute a quorum of the remaining six board members for purposes of voting on the case in which the two members are disqualified. When three or more members of the board are disqualified or otherwise unavailable for any reason, the board's executive officer may request the special appointment of one or more substitute board members pursuant to Iowa Code section 17A.11, subsection 5 17A.11(5).

ITEM 20. Amend subrule 7.4(3) as follows:

7.4(3) The board shall notify other state interior design boards that have issued a similar license to an Iowa registrant of disciplinary action taken against the Iowa registrant. The board shall also notify the ~~National Council for Interior Design Qualification~~ NCIDQ of disciplinary action taken against an Iowa registrant.